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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,499	05/16/2001	Patrick Blanc	Q64525	9426
23373 7590 06/06/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER NGUYEN, TU X	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 06/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	09/855,499		BLANC, PATRICK	
	Examiner		Art Unit	
	Tu X. Nguyen		2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-11 is/are rejected.
- 7) ☒ Claim(s) 3,12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 2/14/07 have been fully considered but they are not persuasive.

In response to Applicants argument pages 5-8, the Examiner disagrees; The Applicant admitted prior art disclose "When using marco-diversity transmission, it is also known to adjust the transmission power levels of the various base stations to which a mobile station is connected relative to one another so as to optimize the performance of the system, and in particular so as to optimize its capacity. Thus, in general, a radio network controller (RNC) in the UMTS system which serves to control base stations determines the power to be used for transmission at an instant t_{n+1} for each of the base stations on the basis of the transmission powers at an instant t_n as reported by each of said base stations. Advantageously, the same transmission power is determined for the various base stations. The transmission power value(s) as determined in this way (also referred to as reference transmission power(s)) are then signalled by the radio network controller to the various base stations which respond by adjusting their transmission powers on said reference transmission powers" reads on claim limitations.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a

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person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 4-11, are rejected under 35 U.S.C. 103(a) as being unpatentable over the Applicant Admitted prior art.

Regarding claim 1, the Applicant admitted prior art discloses a method of adjusting transmission power for base stations transmitting in macro-diversity in a mobile radiocommunications system, wherein

a reference transmission power for said adjustment is signaled to each of said base stations together with an adjustment period (page 2, lines 19-30), and

wherein each of said base stations periodically adjusts its transmission power to said reference transmission power, at said adjustment period (see page 2 lines 31-36).

Regarding claim 6, the Applicant admitted prior art discloses a radio network controller, including, for adjusting transmission powers in base stations transmitting in macro-diversity in a mobile radiocommunications system: means for signaling a reference transmission power value for said adjustment to each of said base stations, together with an adjustment period (see page 2, lines 19-36).

Regarding claim 9, the Applicant admitted prior art discloses a base station, including, for adjusting its transmission power when transmitting in macro-diversity in a mobile radiocommunications system: means for receiving a reference transmission power value for said adjustment, as transmitted by a radio network controller together with an adjustment period; and means for periodically adjusting its transmission power to said reference transmission power value, at said adjustment period (see page 2, lines 19-36).

Regarding claims 2, 4, 7 and 11, the Applicant admitted prior art discloses periodically-performed adjustments are performed at predetermined instants (see par.2 lines 27-28, "instant t_n corresponds to "predetermined instants").

Regarding claims 5 and 8, the Applicant admitted prior art discloses an updated reference transmission power value can be signaled (see page 2, lines 25-26, "the RNC controls base stations" is inherent signals to base stations for transmission power adjustment, "determined power to be used for transmission" corresponds to "reference transmission power value").

Regarding claim 10, Corbett et al. disclose a mobile radiocommunications system, comprising means for performing a method according to claim (see page 2, lines 19-36, the base stations is inherently included power adjustment process circuit for variable transmission power transmitted by base station transceiver).

Allowable Subject Matter

Claims 3 and 12-14, objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding dependent claims 3 and 12, the prior arts fail to disclose "the transmitted information is structured in the form of frames that are numbered using continuous increasing numbering, said adjustment period is expressed as a number N of frames, and said predetermined instants corresponds to frames numbered n (modulo N), where $0 \leq n < N$ ", as cited in the claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is 571-272-7883.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



March 12, 2007



EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
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